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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,934	01/11/2001	Dan Pharo		9611

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EXAMINER

HAYLECK, RYAN T

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/758,934

Applicant(s)

PHARO ET AL.

Examiner

Ryan T. Hayleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Specification*

1. The continuity statement on page 3 of the specification must be updated to reflect the current status of all U.S. non-provisional applications. For example, U.S. Patent Application Serial No. 08/741,619 was abandoned.
2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The disclosure is objected to because of the following informalities:
  - a. On page 8, line 20, the cited reference by Mandel is not the correct U.S. Patent Number; Constansa, Jordi F. et al., invented U.S. Patent No. 4,791,114 which is a patent related to chemicals.
  - b. On page 18, line 26, it is clear from the drawings that Figure 9 is similar to Figure 8, not Figure 7 as stated. Therefore, "Figure 7" should be --Figure 8--.
  - c. On page 20, line 16, reference numeral "10" should be --20--.
  - d. On page 21, line 12, reference numeral "18" should be --28--.
  - e. On page 23, line 4, reference numeral "22" should be --32--.
  - f. On page 23, line 6, reference numeral "10" is not shown in the drawings.
  - g. On page 23, line 11, reference numeral "36" should be --26--.

- h. On page 23, lines 11-12, "arcuately shaped mats 38" are shown as "28" in Figure 3, however reference numeral 28 is used in Figure 1 for the destination as described on page 21, line 15.
- i. On page 23, line 24, "discrete elements 42" are not shown in the drawings.
- j. On page 27, line 3, "the a mat" should be --the mat--.
- k. On page 28, line 25, "guide pathway forming members 42" are not shown in the drawings.
- l. On page 28, line 26, "Figure 9" should be --Figure 8--.
- m. On page 29, line 4, "Figure 8" should be --Figure 9--.
- n. On page 29, line 9, "Figure 9" should be --Figure 8--.
- o. On page 29, line 11, "Figure 8" should be --Figure 9--.
- p. The use of the trademark LEXAN<sup>®</sup> has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appropriate correction is required.

#### *Claim Objections*

- 4. Claim 12 is objected to because of the following informalities:

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Claim 12 recites the limitation "first substrate" in lines 9 and 10. There is insufficient antecedent basis for this limitation in the claim. It is clear that "first substrate" should be --first layer--.

Appropriate correction is required.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensler (U.S. Patent No. et al. in view of Gehweiler (U.S. Patent No. 3,453,660), Blum (U.S. Patent No. 6,219,876) and Beilharz (DE 3413163 A1).

a. With regard to Claims 1-5, Hensler discloses a ground cover substrate 10 for disposition on a ground surface with lines 18 and 16 as path forming elements presenting a desired pattern to enable the orderly and controlled movement of a group of walking pedestrian individuals into one or more lines to a destination. Hensler does not teach at least one end of line element in a fixed location, a plurality of discrete path forming elements, and at least one upstanding guide post located in proximity to an edge of the ground cover substrate.

Blum discloses a floor mat which is a ground cover substrate with an end of line element fastened capable of displaying a variety of different colors, pictures, messages, or other representations that a user may want to display (Column 4, lines 32-36) capable of enabling the orderly and controlled movement of a group of walking pedestrian individuals. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the ground cover substrate disclosed by Hensler to include the end of line element taught by Blum in order to communicate to the pedestrians instructions (i.e. "Stop" or "Wait Here") for purpose of controlling the movement of a group of walking individuals by providing them with instructions.

Gehweiler discloses that the use of a plurality of small discrete path forming elements fastened to a ground substrate is favorable over lines as path forming elements (Column 1, lines 24-27). Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify the ground cover substrate disclosed by Hensler to use a plurality of small discrete path forming elements as taught by Gehweiler in place of lines because discrete path forming elements provide a low cost and efficient means for marking the path since it requires less material.

Beilharz discloses an upstanding guide post in Figure 1 comprising a plate and an upstanding member extending from the plate, relatively light in weight and movable from one location to another, and does not primarily serve as a physical barrier but is visually apparent to guide the pedestrians that can be placed in proximity to an edge of the ground cover substrate to alert the pedestrian in the pathway of a potential change of orientation of the pathway in advance of reaching that change of orientation, Therefore, it would

have been obvious to one skilled in the art at the time the invention was made to modify the ground cover substrate disclosed by Hensler to include the upstanding guide post for the purpose of alerting the pedestrian of upcoming pathway changes.

b. The method Claims 18 and 19 will be met during the normal operation of the apparatus described above.

7. Claims 6-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hensler, Gehweiler, Blum and Beilharz as applied to claims 1-5, 19 and 20 above, and further in view of Obekkusu (JP 2000-200059A).

Hensler, Gehweiler, Blum and Beilharz disclose the system as described above including a first informational message located at the substrate and is substitutable with a second informational substrate, the informational messages located at an underside of a transparent first layer, the end of line element being removable and is also fitted into a recess in the substrate, informational message printed on a sheet material located at an underside of the first layer. They do not describe the system including the substrate comprising a relatively rigid and transparent first layer and a relatively flexible second layer secured to the first layer allowing the substrate to be rolled or laid as a rigid mat, an informational message ink printed on the underside of the first layer, the use of a second informational appliqué to cover the first informational message, the use of a polycarbonate material first layer and an acrylonitrile butadiene styrene co-polymer second layer, and the first and second layer having a thickness of no greater than one-fourth inch.

Obekkusu discloses a system including a relatively rigid and transparent first layer and a relatively flexible second layer secured to the first layer allowing the substrate to be rolled or laid as a rigid mat and an informational message ink printed on the underside of the first layer.

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Therefore it would have been obvious to one skilled in the art at the time the invention was made to modify the combination of Hensler, Gehweiler, Blum and Beilharz so as to make the ground cover substrate of a rigid and transparent first layer and flexible second layer as taught by Obekkusu in order to be able to roll the substrate for storage. It would have been obvious to one skilled in the art at the time the invention was made to modify the combination of Hensler, Gehweiler, Blum and Beilharz to ink print the message for a permanent message on the underside of the first layer since Obekkusu discloses that either adding a printed layer between the first and second layer or printing on the underside of the first layer are alternate methods of printing information on a substrate.

With regard to Claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a polycarbonate material for the first layer and an acrylonitrile butadiene styrene copolymer for the second layer, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended uses as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With regard to Claim 14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have first and second layer with a thickness of no more than one-fourth inch, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



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The patents cited in the PTO 892 pertain to advertising/informational mats.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan T. Hayleck whose telephone number is 703-305-4741. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on 703-308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9319 for regular communications and 703-872-9318 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



Diego Gutierrez  
Supervisory Patent Examiner  
Technology 2800

RTH  
June 3, 2002